

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

TONY MANNS,

Petitioner,

v.

**CIVIL ACTION NO.: 3:22-CV-2
(GROH)**

HUDGINS, Warden

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

Now before the Court is a Report and Recommendation (“R&R”) issued by United States Magistrate Judge Robert W. Trumble. ECF No. 22. Pursuant to the Local Rules, this civil action was referred to Judge Trumble for submission of a proposed R&R. Judge Trumble issued an R&R on October 4, 2022, recommending that the Petitioner’s Petition for Habeas Corpus pursuant to 28 U.S.C. § 2241 [ECF No. 1] be denied and dismissed without prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a de novo review of those portions of the magistrate judge’s findings to which objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and of the Petitioner’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).


Objections to Magistrate Judge Trumble's R&R were due within fourteen plus three days of the Petitioner being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Service was accepted by the pro se Petitioner on October 11, 2022. ECF No. 23. As of the date of this Order, no objections have been filed. Therefore, after allowing additional time for transit in the mail, the Court finds that the deadline for the Petitioner to submit objections to the R&R has passed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Trumble's Report and Recommendation [ECF No. 22] should be, and is hereby, **ORDERED ADOPTED**. For the reasons more fully stated in the R&R, the Petitioner's Petition for Habeas Corpus pursuant to 28 U.S.C. § 2241 [ECF No. 1] is **DISMISSED WITHOUT PREJUDICE**. It is further **ORDERED** that the Petitioner's Motion for Order to Show Cause, titled "Ledger of Claims" [ECF No. 13] be **DENIED** and that the Petitioner's for Show Cause Order Under Title 28 U.S.C. § 2243 [ECF No. 21] be **DENIED**.

Three months after the R&R in this matter was docketed, the Petitioner filed a Motion to Hold Petition for Writ of Habeas Corpus in Abeyance. ECF No. 24. Therein, the Petitioner requests that the Court stay its ruling on his petition until the United States Supreme Court renders its decision in Jones v. Hendrix, No. 21-857. However, the decision in Jones will not address the issues related to the four grounds of relief raised by the petitioner in his habeas petition, and the decision in Jones will not rectify the Petitioner's failure to timely file objections to the R&R in this matter. Therefore, the Petitioner's Motion to Hold Petition for Writ of Habeas Corpus in Abeyance [ECF No. 24] is **DENIED as MOOT**.

The Clerk of Court is **DIRECTED** to **STRIKE** this case from the Court's active docket. The Clerk is **FURTHER DIRECTED** to mail a copy of this Order to the pro se Petitioner by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

DATED: February 9, 2023


GINA M. GROH
UNITED STATES DISTRICT JUDGE